

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 7/8/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
ARTURO YEREMIS,	:	
	:	
Plaintiff,	:	
-against-	:	1:20-cv-04723-GHW
	:	
AMERIT FLEET SOLUTIONS, CHARTER	:	<u>ORDER OF SERVICE</u>
COMMUNICATIONS INC., A-1 ALL GERMAN:	:	
CAR CORPORATION, AND CITY OF NEW	:	
YORK POLICE DEPARTMENT,	:	
	:	
Defendants.	:	
-----X	:	

GREGORY H. WOODS, United States District Judge:

Plaintiff brings this action against Defendants for discrimination on the basis of his race, color, and/or national origin, aiding and abetting discrimination, conversion, and negligent infliction of emotional stress. By order dated June 29, 2020, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP). Dkt. No. 6.

DISCUSSION

A. Service on Defendants

Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the

complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Amerit Fleet Solutions, Charter Communications Inc., A-1 All German Car Corporation, and City of New York Police Department through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

Plaintiff must notify the Court in writing if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.


CONCLUSION

The Clerk of Court is instructed to issue summonses, complete the USM-285 forms with the addresses for Amerit Fleet Solutions, Charter Communications Inc., A-1 All German Car Corporation, and City of New York Police Department and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: July 8, 2020



GREGORY H. WOODS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Amerit Fleet Solutions
405 W. 219th St.
New York, New York 10034
2. Charter Communications
400 Atlantic Street
Stamford, Connecticut 06901
3. A-1 All German Car Corp.
400 W. 219th St.
New York, New York 10034
4. City of New York Police Dept.
One Police Plaza
New York, New York 10038